



Judiciary Committee

**Tuesday, March 28, 2006
10:15 A.M. – 12:00 P.M.
Morris Hall
(17 HOB)**

Amendment Packet

**EXPLANATION OF AMENDMENTS HB 129:
FIREARMS IN VEHICLES - by Rep. Baxley**

Amdt 1 by Reps. Simmons and Baxley (remove everything after the enacting clause):

TEMPORARILY POSTPONED AT LAST MEETING

This strike-all amendment differs from the bill as filed by narrowing the scope of the bill, removing the criminal penalty and providing a civil penalty, and providing exceptions and exemptions to the bill.

Amdt to the Amdt 1a by Rep. Kottkamp (lines 167-198):

This amendment to the amendment proposed to removed some of the immunity language and the opt out provisions for some employers.

FAILED

Amdt 2 by Reps. Baxley and Kottkamp (remove everything after the enacting clause):

This strike-all amendment differs from the bill as filed by narrowing the scope of the bill, removing the criminal penalty and providing a civil penalty, and providing exceptions and exemptions to the bill. The amendment includes public employers, but specifically exempts out schools and prisons, as well as some other employers.

The amendment provides that a public or private entity may not prohibit employees, customers, and other invitees from possessing any **lawfully held personal property** if such property is locked inside or to a private motor vehicle in a parking lot.

The amendment provides for enforcement by the Attorney General with the possibility of injunctive relief and a civil fine of up to \$10,000, per aggrieved employee or invitee, for each violation of the prohibition.

Amdt 3 by Reps. Baxley and Kottkamp (remove everything after the enacting clause):

This strike-all amendment differs from the bill as filed by narrowing the scope of the bill. The amendment provides:

- legislative intent and findings regarding constitutional protections and privacy;
- that a public or private entity may not ask a customer, invitee, or employee to reveal what is contained within a private motor vehicle and that a customer, invitee, or employee is not required to reveal what is contained within a private motor vehicle.
- that a search of a private motor vehicle may only be conducted by on-duty law enforcement personnel and must comply with due process requirements.
- that the Attorney General shall enforce the protections of the act.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER

✓ Temp. Postponed

Council/Committee hearing bill: Judiciary

Representatives Simmons and Baxley offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 790.25, Florida Statutes, is amended to read:

790.25 Lawful ownership, possession, and use of firearms and other weapons.--

(1) DECLARATION OF POLICY.--The Legislature finds as a matter of public policy and fact that it is necessary to promote firearms safety and to curb and prevent the use of firearms and other weapons in crime and by incompetent persons without prohibiting the lawful use in defense of life, home, and property, and the use by United States or state military organizations, and as otherwise now authorized by law, including the right to use and own firearms for target practice and marksmanship on target practice ranges or other lawful places, and lawful hunting and other lawful purposes.

(2) USES NOT AUTHORIZED.--

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Amendment No. 1

21 (a) This section does not authorize carrying a concealed
22 weapon without a permit, as prohibited by ss. 790.01 and 790.02.

23 (b) The protections of this section do not apply to the
24 following:

25 1. A person who has been adjudged mentally incompetent,
26 who is addicted to the use of narcotics or any similar drug, or
27 who is a habitual or chronic alcoholic, or a person using
28 weapons or firearms in violation of ss. 790.07-790.12, 790.14-
29 790.19, 790.22-790.24.†

30 2. Vagrants and other undesirable persons as defined in s.
31 856.02.†

32 3. A person in or about a place of nuisance as defined in
33 s. 823.05, unless such person is there for law enforcement or
34 some other lawful purpose.

35 (3) LAWFUL USES.--The provisions of ss. 790.053 and 790.06
36 do not apply in the following instances, and, despite such
37 sections, it is lawful for the following persons to own,
38 possess, and lawfully use firearms and other weapons,
39 ammunition, and supplies for lawful purposes:

40 (a) Members of the Militia, National Guard, Florida State
41 Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard,
42 organized reserves, and other armed forces of the state and of
43 the United States, when on duty, when training or preparing
44 themselves for military duty, or while subject to recall or
45 mobilization.†

46 (b) Citizens of this state subject to duty in the Armed
47 Forces under s. 2, Art. X of the State Constitution, under
48 chapters 250 and 251, and under federal laws, when on duty or
49 when training or preparing themselves for military duty.†

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50 (c) Persons carrying out or training for emergency
51 management duties under chapter 252.+

52 (d) Sheriffs, marshals, prison or jail wardens, police
53 officers, Florida highway patrol officers, game wardens, revenue
54 officers, forest officials, special officers appointed under the
55 provisions of chapter 354, and other peace and law enforcement
56 officers and their deputies and assistants and full-time paid
57 peace officers of other states and of the Federal Government who
58 are carrying out official duties while in this state.+

59 (e) Officers or employees of the state or United States
60 duly authorized to carry a concealed weapon.+

61 (f) Guards or messengers of common carriers, express
62 companies, armored car carriers, mail carriers, banks, and other
63 financial institutions, while actually employed in and about the
64 shipment, transportation, or delivery of any money, treasure,
65 bullion, bonds, or other thing of value within this state.+

66 (g) Regularly enrolled members of any organization duly
67 authorized to purchase or receive weapons from the United States
68 or from this state, or regularly enrolled members of clubs
69 organized for target, skeet, or trap shooting, while at or going
70 to or from shooting practice; or regularly enrolled members of
71 clubs organized for modern or antique firearms collecting, while
72 such members are at or going to or from their collectors' gun
73 shows, conventions, or exhibits.+

74 (h) A person engaged in fishing, camping, or lawful
75 hunting or going to or returning from a fishing, camping, or
76 lawful hunting expedition.+

77 (i) A person engaged in the business of manufacturing,
78 repairing, or dealing in firearms, or the agent or

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79 representative of any such person while engaged in the lawful
80 course of such business.†

81 (j) A person firing weapons for testing or target practice
82 under safe conditions and in a safe place not prohibited by law
83 or going to or from such place.†

84 (k) A person firing weapons in a safe and secure indoor
85 range for testing and target practice.†

86 (l) A person traveling by private conveyance when the
87 weapon is securely encased or in a public conveyance when the
88 weapon is securely encased and not in the person's manual
89 possession.†

90 (m) A person while carrying a pistol unloaded and in a
91 secure wrapper, concealed or otherwise, from the place of
92 purchase to his or her home or place of business or to a place
93 of repair or back to his or her home or place of business.†

94 (n) A person possessing arms at his or her home or place
95 of business.†

96 (o) Investigators employed by the several public defenders
97 of the state, while actually carrying out official duties,
98 provided such investigators:

- 99 1. Are employed full time;
- 100 2. Meet the official training standards for firearms
101 established by the Criminal Justice Standards and Training
102 Commission as provided in s. 943.12(5) and the requirements of
103 ss. 493.6108(1)(a) and 943.13(1)-(4); and
- 104 3. Are individually designated by an affidavit of consent
105 signed by the employing public defender and filed with the clerk
106 of the circuit court in the county in which the employing public
107 defender resides.

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Amendment No. 1

(p) Investigators employed by the capital collateral representative, while actually carrying out official duties, provided such investigators:

1. Are employed full time;

2. Meet the official training standards for firearms as established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(1) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and

3. Are individually designated by an affidavit of consent signed by the capital collateral representative and filed with the clerk of the circuit court in the county in which the investigator is headquartered.

(4) CONSTRUCTION.--This act shall be liberally construed to carry out the declaration of policy herein and in favor of the constitutional right to keep and bear arms for lawful purposes. This act is supplemental and additional to existing rights to bear arms now guaranteed by law and decisions of the courts of Florida, and nothing herein shall impair or diminish any of such rights. This act shall supersede any law, ordinance, or regulation in conflict herewith.

(5) POSSESSION IN PRIVATE CONVEYANCE.--Notwithstanding subsection (2), it is lawful and is not a violation of s. 790.01 for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. Nothing herein contained prohibits the carrying of a legal firearm other than a handgun anywhere in a private conveyance when such firearm is being carried for a lawful use. Nothing herein

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138 contained shall be construed to authorize the carrying of a
139 concealed firearm or other weapon on the person. This subsection
140 shall be liberally construed in favor of the lawful use,
141 ownership, and possession of firearms and other weapons,
142 including lawful self-defense as provided in s. 776.012.

143 (6) STORAGE AND TRANSPORT OF FIREARMS LOCKED INSIDE OR
144 LOCKED TO A MOTOR VEHICLE IN A PARKING AREA; PENALTY; IMMUNITY
145 FROM LIABILITY.--

146 (a) As used in this subsection, the term:

147 1. "motor vehicle" means any automobile, truck, minivan,
148 sports utility vehicle, motorcycle, motor scooter, or any other
149 similar vehicle required to be registered under Florida law.

150 2. "employee" means any person who works for salary,
151 wages, or other remuneration; is an independent contractor; or
152 is a volunteer, intern, or other similar individual for an
153 employer.

154 3. "employer" means any business that is a sole
155 proprietorship, partnership, corporation, limited liability
156 company, professional association, cooperative, joint venture,
157 trust, firm, institution, or association, with employees.

158 4. "invitee" means any business invitee, including a
159 customer or visitor lawfully on the premises.

160 (b) Except as provided in paragraph (e), no employer, or
161 landlord of an employer, shall establish, maintain, or enforce
162 any policy or rule that prohibits or has the effect of
163 prohibiting an employee or invitee in lawful possession of a
164 firearm from parking a motor vehicle on any property used for
165 that purpose when the employee or invitee is lawfully in such
166 area and the firearm is actually locked inside or locked to the
167 motor vehicle, unless, at its own election, the employer, or

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landlord of the employer, provides the employee or invitee with the opportunity to:

1. check, store, or secure the firearm of the employee or invitee subject to reasonable conditions; or

2. park in an onsite area set aside by the employer, or landlord of the employer, for parking motor vehicles with a firearm locked inside or locked to the motor vehicle. In the event the employer, or landlord of the employer, elects to provide such onsite area, it shall be as convenient as other employee or invitee parking and shall not be marked or posted as a special parking area for such purposes; or

3. notify the employer, or landlord of the employer, or their designee, that the employee or invitee intends, from time to time, to be in lawful possession of a firearm locked inside or locked to a motor vehicle.

(c)1. No employer, or landlord of an employer, or employee imposing or implementing a policy under paragraph (b), shall be liable in any civil or other action for any harm that arises out of, or results from, directly or indirectly, the use or threatened use of a firearm that was being transported and stored by an employee or invitee and was locked inside of or locked to a motor vehicle on any property owned or leased by an employer, or landlord of an employer, and used for parking motor vehicles. The immunity provided in this sub-paragraph extends to the vicarious liability of an employer or landlord of an employer that arises out of, or results from, directly or indirectly, the use or threatened use of a firearm that was being transported and stored by an employee or invitee and was locked inside of or locked to a motor vehicle on any property owned or leased by an employer, or landlord of an employer, and

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198 used for parking motor vehicles. The immunity provided in this
199 sub-paragraph shall not apply to any person who uses or
200 threatens to use a firearm or other weapon. The immunity
201 provided in this sub-paragraph shall not apply if the harm
202 involved was caused, in whole or in part, by the willful or
203 criminal misconduct of the employer, or landlord of the
204 employer, or a conscious and flagrant indifference to the safety
205 of the person or persons harmed.

206 2. A civil fine of \$10,000, per aggrieved employee or
207 invitee, shall be imposed for each violation of the prohibition
208 in paragraph (b).

209 (d) It is the intent of this subsection to reinforce and
210 protect the right of each law-abiding employee or invitee to
211 enter and exit any property owned or leased by an employer, or
212 landlord of an employer, and used for parking motor vehicles
213 while the employee or invitee is lawfully transporting and
214 storing a firearm in the motor vehicle and the firearm is locked
215 inside or locked to the motor vehicle, to avail himself or
216 herself of temporary or long-term parking or storage of a motor
217 vehicle, and to prohibit any infringement of the right to lawful
218 possession of the firearm when the firearm is being transported
219 and stored inside or locked to a motor vehicle for a lawful
220 purpose.

221 (e) The prohibition in paragraph (b) does not apply to:

222 1. property owned or leased by an employer, or landlord of
223 an employer, upon which are conducted activities involving
224 national defense, aerospace, or domestic security.

225 2. property owned or leased by an employer, or landlord of
226 an employer, upon which a significant portion of the business
227 conducted on such property involves the manufacture, use,

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storage, sale, or transportation of hazardous or ultra-hazardous materials regulated under state or federal law, including combustible or explosive materials.

3. a motor vehicle owned, leased, or rented by an employer, or landlord of an employer, or its agent.

4. any other property owned or leased by an employer, or landlord of an employer, where an employee or invitee is prohibited from having a firearm pursuant to any federal law or any existing state general law on the effective date of this act.

Section 2. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to lawful ownership, possession, and use of firearms; amending s. 790.25, F.S., relating to lawful ownership, possession, and use of firearms and other weapons; providing definitions; prohibiting specified employers and landlords of employers in certain circumstances from establishing, maintaining, or enforcing any policy or rule that prohibits certain employees and invitees from parking a motor vehicle on property set aside for such purpose when a secured firearm is being lawfully transported and stored in the motor vehicle; providing for specified immunity from liability; providing a civil penalty; providing intent; providing exceptions; providing an effective date.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment No. 1A

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT ☒ (Y/N) (5/7)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Judiciary

Representative Kottkamp offered the following:

**Amendment to Amendment #1 by Representatives Simmons and
Baxley**

Remove lines 167-198 and insert:

motor vehicle.

(c)1. No employer, or landlord of an employer, or employee
imposing or implementing a policy under paragraph (b), shall be
liable for any harm that arises out of, or results from, the use
of a firearm that was being transported and stored by an
employee or invitee and was locked inside of or locked to a
motor vehicle on any property owned or leased by an employer, or
landlord of an employer, and used for parking motor vehicles.
The immunity provided in this

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment No. 2

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Judiciary
Representative(s) Baxley & Kottkamp offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:
Section 1. Section 790.251, Florida Statutes, is created
to read:

790.251 Privacy and personal property protection; storage
and transport of personal property locked inside or locked to a
motor vehicle in a parking area; penalty; immunity from
liability.--

(1) SHORT TITLE.--This act may be cited as the "Individual
Personal Private Property Protection Act."

(2) LEGISLATIVE INTENT.--This act is intended to codify
the longstanding legislative policy of this state that:

(a) Citizens have a constitutional right to privacy;

(b) Citizens have a constitutional right to possess and
securely keep legal private property within their motor
vehicles, particularly such property as is necessary for or
incidental to their exercise of other constitutional rights; and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

21 (c) These rights are not abrogated by virtue of a
22 citizen's becoming a customer, employee, or invitee of a
23 business entity.

24 (3) LEGISLATIVE FINDINGS.--The Legislature finds that
25 citizens' lawful possession, transportation, and secure keeping
26 of certain private property within their motor vehicles is
27 essential to the exercise of fundamental constitutional rights,
28 including freedom of speech, freedom of association, the free
29 exercise of religion, and to keep and bear arms. The Legislature
30 finds that there is a compelling state interest to protect the
31 fundamental private property rights of the citizens of Florida.
32 The Legislature further finds that a citizen is not required and
33 should not be required to waive or abrogate his or her right to
34 possess and securely keep such constitutionally protected
35 private property locked within his or her motor vehicle by
36 virtue of becoming a customer, employee, or invitee of an
37 employer or a business establishment within the state.

38 (4) DEFINITIONS.--As used in this section, the term:

39 (a) "Aggrieved person" means any customer, employee, or
40 invitee as defined in this subsection.

41 (b) "Employee" means a person who works for salary, wages,
42 or other remuneration; is an independent contractor; or is a
43 volunteer, intern, or other similar individual for an employer.

44 (c) "Employer" means a business that is a sole
45 proprietorship, partnership, corporation, limited liability
46 company, professional association, cooperative, joint venture,
47 trust, firm, institution, association, or public-sector entity,
48 which has employees.

49 (d) "Invitee" means any business invitee, including a
50 customer or visitor, who is lawfully on the premises.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

51 (e) "Motor vehicle" means any automobile, truck minivan,
52 sports utility vehicle, motor home, recreational vehicle,
53 motorcycle, or motor scooter, or any other vehicle, which is
54 operated on the roads of this state and is required to be
55 registered under Florida law.

56 (f) "Parking lot" means any property that is owned or
57 leased by an employer, or a landlord of an employer, and used
58 for parking motor vehicles and that is available to customers,
59 employees, or invitees for temporary or long-term parking or
60 storage of motor vehicles.

61 (5) PROHIBITED ACTS.--A public or private entity may not
62 violate the constitutional rights of any customer, employee, or
63 invitee as provided in this subsection:

64 (a) A public or private entity may not prohibit any
65 customer, employee or invitee from possessing any lawfully held
66 personal property if such property is locked inside or to a
67 private motor vehicle in a parking lot when the customer,
68 employee, or invitee is lawfully in such area.

69 (b) A public or private entity may not violate the privacy
70 rights of a customer, employee, or invitee by verbal inquiry or
71 actual search of a private motor vehicle in a parking lot. A
72 search of a private motor vehicle may be conducted only by on
73 duty law enforcement personnel and must comply with the due
74 process requirements of the Constitution of the State of Florida
75 and the United States Constitution.

76 (c) An employer may not condition employment upon
77 preventing or prohibiting, or otherwise attempt to prevent or
78 prohibit, any customer, employee, or invitee from keeping locked
79 within the trunk, glove box, other enclosed compartment, or area
80 out of sight within a motor vehicle any property or material the
81 lawful possession of which is protected by, or the lawful use of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

82 which is incidental to, the exercise of individual rights
83 protected under the United States Constitution and the State
84 Constitution.

85 (d) An employer may not terminate the employment of or
86 otherwise discriminate against an employee, or expel a customer
87 or invitee, for exercising his or her constitutional right to
88 keep and bear arms or the right of self-defense as long as a
89 firearm is never exhibited on company property except for lawful
90 defensive purposes.

91
92 This section applies to all public-sector employers, including
93 those that are already prohibited from regulating firearms under
94 s. 790.33.

95 (6) IMMUNITY FROM LEGAL LIABILITY.--An employer or a
96 landlord of an employer is not liable in a civil action that
97 arises, directly or indirectly, out of or results from the theft
98 of or the threatened use or accidental or criminal use of a
99 firearm or any other legal property that was stored in the
100 private motor vehicle by a customer, employee, or invitee in a
101 parking lot owned or leased by an employer or the landlord of an
102 employer. The immunity provided in this subsection does not
103 apply to a person who uses or threatens to use a firearm or
104 other weapon in a criminal act. The immunity provided in this
105 subsection does not apply if the harm involved was caused, in
106 whole or in part, by the willful or criminal misconduct of the
107 employer or the landlord of the employer.

108 (7) ENFORCEMENT.--The Attorney General shall enforce the
109 protections of this act on behalf of an aggrieved person if
110 there is reasonable cause to believe that the customer,
111 employee, or invitee's rights under this act have been violated
112 by a public or private entity and shall commence a civil or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

administrative action for damages, injunctive relief, or civil penalties, and such other relief as may be appropriate under the laws of this state pursuant to s. 760.51, or may negotiate a settlement with an employer on behalf of an aggrieved person.

(8) The prohibitions in subsection (5) do not apply to:

(a) Property owned or leased by an employer, or the landlord of an employer, upon which are conducted substantial activities involving national defense, aerospace, or domestic security if the presence of such private property in a parking lot presents an increased danger of explosion or reasonably predictable catastrophic event.

(b) Property owned or leased by an employer, or the landlord of an employer, upon which the primary business conducted is the manufacture, use, storage, or transportation of combustible or explosive materials regulated under state or federal law if the presence of such products in a parking lot presents an increased danger of explosion or reasonably predictable catastrophic event.

(c) A motor vehicle owned, leased, or rented by an employer, or the landlord of an employer, or its agent.

(d) Any other property owned or leased by an employer, or the landlord of an employer, if a customer, employee, or invitee is prohibited from having a firearm or other legal product pursuant to any federal law or any general law of this state existing on the effective date of this act.

(e) Any school property as defined and regulated under s. 790.115.

(f) Any prison-facility grounds as defined and regulated under s. 944.47.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

142 (g) Uses of firearms and other weapons which are
143 prohibited under s. 790.25(2). The restrictions provided in that
144 subsection are not affected by this section.

145 Section 2. This act shall take effect upon becoming a law
146 and shall apply to causes of action that accrue on or after that
147 date.

148
149 ===== T I T L E A M E N D M E N T =====

150 Remove the entire title and insert:

151 An act relating to the protection of constitutional rights;
152 creating s. 790.251, F.S.; creating the "Individual Personal
153 Private Property Protection Act"; providing legislative intent
154 and legislative findings; defining terms; prohibiting a public
155 or private entity from violating the constitutional rights of a
156 customer, employee, or invitee by prohibiting or otherwise
157 deterring that person from having certain lawful items locked in
158 or to the person's private motor vehicle while it is in a
159 parking lot or by discouraging exercise of the right to keep and
160 bear arms; providing immunity from legal liability to an
161 employer or landlord of an employer for certain acts arising out
162 of another person's storing legal property in a private motor
163 vehicle parked on the employer's or landlord's property;
164 requiring the Attorney General to enforce this section on behalf
165 of an aggrieved person; providing exceptions to the prohibitions
166 imposed by the act; providing an effective date.

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Amendment No. 3

23 and seizures, freedom of speech, freedom of association, free
24 exercise of religion, and to keep and bear arms. The Legislature
25 finds that there is a compelling state interest to protect the
26 fundamental privacy rights of the citizens of Florida.

27 (3) A public or private entity may not violate the
28 privacy rights of a person either by inquiry or actual search of
29 a private motor vehicle. A search of a private motor vehicle
30 may only be conducted by on-duty law enforcement personnel and
31 must comply with the due process requirements of the Florida
32 Constitution and the Constitution of the United States.

33 (4) A public or private entity may not ask a customer,
34 invitee, or employee to reveal what is contained within a
35 private motor vehicle and a customer, invitee, or employee is
36 not required to reveal what is contained within a private motor
37 vehicle.

38 (5) For purposes of this section, "motor vehicle" means
39 any automobile, truck, minivan, sports utility vehicle, motor
40 home, recreational vehicle, motorcycle, motor scooter, or any
41 other vehicle operated on the roads of this state required to be
42 registered under Florida law.

43 (6) ENFORCEMENT.--The Attorney General shall enforce the
44 protections of this act on behalf of an aggrieved person if
45 there is reasonable cause to believe that the person's rights
46 under this act have been violated by a public or private entity
47 and shall commence a civil or administrative action for damages,
48 injunctive relief, and/or civil penalties and other such relief
49 as may be appropriate under the laws of this state pursuant to
50 the provisions of s. 760.51, or may negotiate a settlement with
51 any employer on behalf of any aggrieved person.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Section 2. This act shall take effect upon becoming a law and shall apply to causes of action that accrue on or after that date.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to the protection of constitutional rights; creating s. 790.251, F.S.; providing legislative intent and legislative findings; defining terms; prohibiting a public or private entity from violating the privacy rights of a person either by inquiry or actual search of a private motor vehicle; providing that a search of a private motor vehicle may only be conducted by on-duty law enforcement personnel in compliance with constitutional protections; providing that a public or private entity may not ask a customer, invitee, or employee to reveal what is contained within a private motor vehicle; defining "motor vehicle"; requiring the Attorney General to enforce the act on behalf of an aggrieved person; providing for damages, injunctive relief, and civil penalties; providing an effective date.

**EXPLANATION OF AMENDMENTS TO HB 595:
COMMUNITY BEHAVIORAL HEALTH AGENCIES- by Rep. Cannon**

Amdt 1 by Rep. Cannon (lines 22-55):

The amendment rewrites a portion of the bill to:

- clarify that the bill applies to negligence actions arising out of the provision of crisis stabilization services;
- remove the provisions relating to allowing a claims bill;
- clarify that the required insurance coverage is for paying claims arising out of these negligence actions;
- address the technical drafting concerns raised in the bill analysis.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. HB 595

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Judiciary

Representative Simmons offered the following:

Amendment (with title amendment)

Remove lines 22-55 and insert:

Section 1. Section 394.9085, Florida Statutes, is created
to read:

394.9085 Behavioral provider liability.--

(1)(a) In any negligence action for damages for personal
injury or wrongful death arising out of the provision of
services for crisis stabilization brought against a
detoxification program, an addictions receiving facility, or a
designated public receiving facility, net economic damages shall
be limited to \$1 million per claim, including, but not limited
to, past and future medical expenses, wage loss, and loss of
earning capacity, offset by any collateral source payment paid
in accordance with s. 768.76.

(b) In any negligence action for damages for personal
injury or wrongful death arising out of the provisions of
services for crisis stabilization brought against any
detoxification program, an addictions receiving facility, or a

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designated public receiving facility, noneconomic damages shall be limited to \$200,000 per claim.

(c) Any costs in defending actions brought under this section shall be assumed by the provider or its insurer.

(2) The limitations on liability of a detoxification program, an addictions receiving facility, or any designated public receiving facility as described in subsection (1) shall be exclusive. These limitations apply to each employee of the provider when the employee is acting in furtherance of the provider's responsibilities under its contract with the department. These limitations do not apply to a provider or employee acting in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression if the act results in injury or death.

(3) The eligible provider under this section must, as part of its contract, obtain and maintain an insurance policy providing a minimum of \$1 million per claim and \$3 million per incident in coverage for claims described in subsection (1).

===== T I T L E A M E N D M E N T =====

Remove lines 2-11 and insert:

An act relating to community behavioral health agencies; creating s. 394.9085, F.S.; providing that certain facilities or programs have liability limits in negligence actions under certain circumstances; limiting net economic damages allowed per claim; requiring that damages be offset by collateral source payment in accordance with s. 768.76, F.S.; requiring that costs to defend actions be assumed by the provider or its insurer; specifying occasions upon which the limitations on liability enjoyed by the provider